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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

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CURTIS LEE SHEPPARD,

§

Plaintiff,

§

*versus*

§ CIVIL ACTION NO. 1:12-CV-169

BRAD LIVINGSTON, *et al.*,

§

Defendants.

§

**MEMORANDUM OPINION AND ORDER**

The court previously entered an order denying a motion for preliminary injunction filed by the plaintiff. The plaintiff subsequently filed a notice of appeal concerning the order and a motion seeking leave to proceed *in forma pauperis* on appeal.

Under 28 U.S.C. § 1915(g), prisoners are prohibited from proceeding *in forma pauperis*, either at the district court level or on appeal, if at least three of their prior lawsuits or appeals have been dismissed as frivolous or malicious, or for failing to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious injury.

Prior to the date on which the plaintiff filed his notice of appeal, courts had dismissed three lawsuits filed by plaintiff as frivolous or for failure to state a claim.<sup>1</sup> The plaintiff has not demonstrated he was in “imminent danger of serious physical injury” on the date he filed his notice of appeal. Accordingly, Section 1915(g) bars the plaintiff from proceeding with his appeal on an *in forma pauperis* basis. His motion must therefore be denied.

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<sup>1</sup>

*Sheppard v. Stout*, No. 7:10cv24 (N.D Tex. Feb. 26, 2010) (dismissed as frivolous); *Sheppard v. Gray*, No. 7:09cv195 (N.D. Tex. June 16, 2010) (dismissed as frivolous); *Sheppard v. Alford*, No. 1:11cv169 (E.D. Tex. Aug. 22, 2012) (dismissed for failure to state a claim upon which relief may be granted).

**ORDER**

For the reasons set forth above, the plaintiff's motion to proceed *in forma pauperis* on appeal is **DENIED**.

SIGNED at Beaumont, Texas, this 2nd day of May, 2014.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE